

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID JOSEPH OLEAN,	:	CIVIL ACTION NO. 1:20-CV-360
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 13th day of August, 2020, upon consideration of the report (Doc. 6) of Magistrate Judge Joseph F. Saporito, Jr., issued following review of *pro se* plaintiff David Joseph Olean’s complaint (Doc. 1), wherein Judge Saporito notes that the sole defendant named by Olean is the Commonwealth of Pennsylvania, and recommends that the complaint thus be dismissed for lack of subject matter jurisdiction pursuant to the Eleventh Amendment, and the court noting that Olean has lodged an objection (Doc. 7) to the report, see FED. R. CIV. P. 72(b)(2), and following *de novo* review of the contested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)), and affording “reasoned consideration” to the uncontested portions, id. (quoting Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)), the court finding Judge Saporito’s analysis to be well-reasoned and fully supported by the record and the

applicable law, and finding Olean's objection (Doc. 7) to be without merit for the reasons set forth in the report,¹ it is hereby ORDERED that:

1. The report (Doc. 6) of Magistrate Judge Saporito is ADOPTED.
2. Olean's complaint (Doc. 2) against the Commonwealth of Pennsylvania is DISMISSED for lack of subject matter jurisdiction.
3. The Clerk of Court is directed to close this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner
United States District Judge
Middle District of Pennsylvania

¹ Olean does not directly confront Judge Saporito's legal conclusion. Rather, Olean takes issue with the perceived unfairness of sovereign immunity, suggesting that the Commonwealth "is using sovereign immunity to deny me of my right to due process" and that he "will have no legal remedy available" if the complaint against the Commonwealth is dismissed since he does not know which individual employees to sue. (Doc. 7 at 2-3). The Commonwealth has reaffirmed its federal-court sovereign immunity by statute, see 42 PA. CONS. STAT. § 8521(b), and Judge Saporito has correctly applied the doctrine in recommending dismissal of Olean's federal-court claim against the Commonwealth.